

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -	X	
	:	
UNITED STATES OF AMERICA	:	<u>INDICTMENT</u>
	:	
- v. -	:	22 Cr.
	:	
VITALY BORKER,	:	
	:	
Defendant.	:	
- - - - -	X	

22 CRIM 273

COUNT ONE
(Mail Fraud)

The Grand Jury charges:

1. From at least in or about June 2020, up to and including at least in or about February 2022, in the Southern District of New York and elsewhere, VITALY BORKER, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, did place in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and did take and receive therefrom, such matters and things, and did cause to be delivered by mail and such carriers, according to

the directions thereon, and at the places at which they were directed to be delivered by the person to whom they were addressed, such matters and things, to wit, BORKER defrauded customers of his retail eyewear website, EyeglassesDepot.com, by, among other things, misrepresenting the authenticity and condition of merchandise he sold and mailed to such customers.

(Title 18, United States Code, Sections 1341 and 2.)

COUNT TWO
(Wire Fraud)

The Grand Jury charges:

2. From at least in or about June 2020, up to and including at least in or about February 2022, in the Southern District of New York and elsewhere, VITALY BORKER, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, to wit, BORKER defrauded customers of his retail eyewear website, EyeglassesDepot.com, by, among other things, making misrepresentations via email and telephone concerning the authenticity and condition of

merchandise he offered for sale and sold to customers.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT THREE
(Aggravated Identity Theft)

The Grand Jury charges:

3. From at least in or about June 2020, up to and including at least in or about February 2022, in the Southern District of New York and elsewhere, VITALY BORKER, the defendant, knowingly did transfer, possess, and use, without lawful authority, a means of identification of another person, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit, BORKER used and transferred the names of two other persons ("Individual-1" and "Individual-2") during and in relation to the mail and wire fraud violations charged in Counts One and Two of this Indictment.

(Title 18, United States Code, Sections 1028A(a)(1), 1028A(b), and 2)

FORFEITURE ALLEGATION

4. As a result of committing the offenses alleged in Counts One and Two of this Indictment, VITALY BORKER, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds

traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses and the following specific property:

a. Any and all funds on deposit in Bank of America account 4830 7587 0329, held in the name of "EyewearDepot Inc" and all funds traceable thereto, including accrued interest.

Substitute Asset Provision

5. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

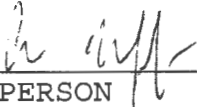
c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

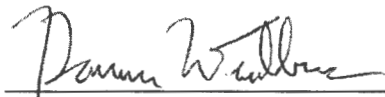
e. has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to

seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)



FOREPERSON



DAMIAN WILLIAMS
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

VITALY BORKER,

Defendant.

INDICTMENT

22 Cr.

(18 U.S.C. §§ 1341, 1343, 1028A, and 2.)

DAMIAN WILLIAMS

United States Attorney


Foreperson

05/12/2022

(CA)

INDICTMENT FILED
WHEREA. DJ RAKOFF

KH PARKER
USMS